

OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORTS)
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
DIST. RAIGAD, MAHARASHTRA 400 707.

F.NO. S/26-Misc-76/04 TCU/IMP Date:

STANDING ORDER NO. 31/2004

Sub: Filing of Defective Appeals by the Department reg.

Section 129A of the Customs Act, 1962 deals with the filing of appeal before the Customs, Excise & Service Tax Appellate Tribunal and provides guidelines for filing such appeals. The procedure for filing appeals before the Tribunal has been prescribed in the CESTAT (Procedure) Rules, 1982, and Customs (Appeals) Rules, 1982.

Rules 5, 6A, 8, 9, 16 and 17 of the CESTAT (Procedure) Rules, 1982 provide detailed procedure for filing appeals and Rule 14 and 15 ibid provide for filing of authorization at a later stage.

It has been observed that most of the appeals filed by the department are found defective in many respects. The following are the common defects noticed in the appeals filed by the Revenue:

- i) Copies of the supporting documents attached with the appeal are found illegible.
- ii) Appeals are not page numbered/indexed properly.
- iii) Appellants/Respondent are not shown correctly in some cases.
- iv) Appeals/Cross Objection/Misc. Applications are not filed in the proper format.
- v) Appeals are not supported by applications for condonation of delay where the appeals are filed after 3 months, when the limitation period is over.
- vi) Unattested photocopies of order-in-original/order-in-appeal/SCN, etc. are filed.
- vii) Appeals/Application/other related documents are not properly tagged and combined in a folder properly.
- viii) English translation of Hindi documents are not attached.
- ix) No. of complete sets as required are not filed.
- x) Date of communication of the impugned order is not shown correctly in some cases.
- xi) Requisite number of appeals not being filed.
- xii) Only one consolidated appeal is filed irrespective of the No. of appeals to be filed against different parties/order-in-original passed by the lower authorities.
- xiii) Incomplete set of documents is sent intervening pages missing.
- xiv) Certain inaccuracies in the information filled up in the various columns of the appeal memorandum in prescribed form/or not filling up of the required information at all/or indicating entire amount demanded in SCN as amount involved, though appeal is filed only in respect of part amount demanded in the SCN.

The filing of the defective appeals and issue of defect memos by the Registrar seeking rectification of these defect from the department, not only delays the listing of the appeals before the Bench, apart from exchange of avoidable and protracted correspondence between the Registry and the concerned Commissioner/AC/DC, which only add up to further

A check list for preparing paperbook for the purpose of filing departmental appeal is enclosed, which would serve as a ready referencer, and would be of great assistance to the officers while filing departmental appeals, as it indicates the documents required to be

All officers must ensure that appeals filed by them are complete in all respects containing legible copy of all documents and are filed as prescribed in law, so that threat to the departmental appeal being dismissed at the threshold stage on account of technical lapse in filing of the same are not only averted but also enable the DRs to effectively prepare and present the

Any deviation from these instructions will be viewed very seriously.

(R. SHARMA)

COMMISSIONER OF CUSTOMS (IMPORTS)

Copy to:

- 1) All departments.
- 2) All DC/AC i.c. Groups.